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June 29, 2001

Laurie Duarte
General Services Administration
FAR Secretariat (MVR)
1800 F Street, NW, Room 4035
Washington, DC 20405

2001-014-616

Re: FAR Case 2001-014

Ms. Duarte,

I am writing to urge the repeal of the recent amendments to the Federal Acquisition Regulation. We are primarily concerned about these regulations on two grounds. First, the matters that can be considered by a contracting officer are too diverse to provide for fair and equitable determinations. The scope of the authority given to determine whether a contractor has a history of "satisfactory compliance with the law" goes well beyond the interpretation of laws that relate to the obligations enforced by the OFCCP. As most compliance officers have little or no training in the application and interpretation of technical provisions of labor and employment, environmental, antitrust, tax, or consumer protection laws, it is not appropriate for contracting officers to attempt to apply these laws when making contract award determinations.

Secondly, the revised FAR lacks adequate guidelines for the exercise of discretion by the contracting officer. Without any clear requirements concerning the standard for determining "non-satisfactory compliance" the revised FAR provides a means for manipulation of the contract award process. It allows the award process to be influenced by pending or otherwise unsubstantiated allegations of wrongdoing, allowing third-parties, such as competitors, disgruntled employees or former employees, and unions seeking recognition or concessions, to make allegations against contractors in an attempt to either manipulate their own negotiations with the contractor, or cause economic harm to the contractor. In addition to subverting the contract award process, allowing for such influence also runs counter to the government's goal of streamlining the procurement process, and is a marked departure from the government's policy of remaining neutral in labor-management disputes.

Accordingly, we continue to strongly oppose the recent changes to the Federal Acquisition Regulation, and request their repeal.

Sincerely,


Julie K. Hackworth

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cc: The Hon. Mitch McConnell
The Hon. Anne Northup
The Hon. Ernest Fletcher
The Hon. Jim Bunning
The Hon. Ken Lucas

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